



*United States Attorney  
Southern District of New York*

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**U.S. CHARGES MANHATTAN INVESTMENT ADVISOR  
WITH DEFRAUDING MILLIONS FROM INVESTORS**

JAMES B. COMEY, the United States Attorney for the Southern District of New York, announced the arrest today of TODD M. EBERHARD, a Manhattan-based investment advisor and securities broker, on securities and mail fraud charges. The charges arise from his alleged participation in a scheme to defraud his clients of millions of dollars, including one client, who, according to court documents, lost more than \$10 million. The charges, which are contained in a criminal Complaint unsealed today in Manhattan federal court, allege that EBERHARD participated in a multi-year scheme in which he "churned" (unnecessarily traded stocks for the primary purpose of gaining commissions) clients accounts, forged client signatures, misappropriated client funds, and provided fabricated account statements to clients to conceal his fraud.

According to the Complaint, EBERHARD conducted business through two Manhattan-based entities that he controlled: Park

South Securities, LLC ("Park South"), an investment advisory firm registered with the United States Securities and Exchange Commission (the "SEC"); and Eberhard Investment Advisors ("EIA"), an unregistered financial services firm. The Complaint alleges that EBERHARD systematically defrauded his investment advisory clients by using his discretionary authority over client accounts to enter into voluminous trades in "Class B Shares," mutual funds that carry high fees and are generally regarded as unsuitable securities for active trading. It is alleged the high-volume trading in Class B Shares generated significant commissions and sales credits for EBERHARD, but resulted in massive losses for his clients. The Complaint also accuses EBERHARD of forging clients' signatures to obtain discretionary authority over their accounts. The churning yielded commissions and sales credits for EBERHARD of approximately \$5 million per year, according to the Complaint.

As a result of the alleged churning, the Complaint charges that EBERHARD was named in numerous customer complaints and claims, resulting in his entering into settlements with clients in which he agreed to pay more than \$4 million. EBERHARD allegedly included confidentiality clauses in these settlement agreements that, in violation of NASD rules, barred the clients from cooperating with NASD investigations.

In addition to the alleged "churning," the Complaint

charges that EBERHARD misappropriated clients' funds by making unauthorized transfers of client funds, and making some transfers to other clients. To conceal his fraud and misappropriation, EBERHARD provided clients with false account statements that misrepresented the value of assets held. In one instance, it is alleged, EBERHARD provided a victim with fabricated account statements that reflected that over \$8 million was held in accounts in the client's name. According to the Complaint, the accounts were not held in the client's name and contained less than \$2 million.

The Complaint charges EBERHARD with securities fraud and mail fraud. If convicted of the securities fraud count, EBERHARD faces a maximum penalty of 25 years in prison, and a fine of the greatest of \$1 million, or twice the gross gain or gross loss from the offense. If convicted of the mail fraud count EBERHARD faces a maximum penalty of 20 years in prison and a \$1 million fine, or twice the gross gain or gross loss from the offense.

In a separate action, the SEC today filed civil securities fraud charges against EBERHARD, Park South and EIA in Manhattan federal court .

EBERHARD, 39, lives in New York, New York. He was arrested this morning and is expected to appear in Manhattan federal court later today.

Mr. COMEY praised the efforts of the U.S. Postal Inspection Service in the investigation of this case. Mr. Comey also expressed gratitude to the SEC and to NASD for their assistance in this matter.

Assistant United States Attorney JULIAN D. SCHREIBMAN is in charge of the prosecution.

The charges contained in the Complaint are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

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